

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

CASSANDRA GESKE, on behalf of herself
and all others similarly situated,

Plaintiff,

v.

PNY TECHNOLOGIES, INC.,

Defendant.

Case No. 1:19-cv-05170
Honorable Lindsay Jenkins
Magistrate Young B. Kim

DJAKARTA JACOBS, on behalf of herself
and all others similarly situated,

Plaintiff,

v.

PNY TECHNOLOGIES, INC.,

Defendant.

Case No. 1:21-cv-03354
Honorable Lindsay Jenkins
Magistrate Young B. Kim

**DEFENDANT PNY TECHNOLOGIES, INC.'S
MOTION FOR SETTLEMENT CONFERENCE**

Pursuant to Rule 16(a)(5) of the Federal Rules of Civil Procedure, and this Court's guidance from the hearing dated June 6, 2023, Defendant PNY Technologies, Inc. respectfully moves this Court for the entry of an Order scheduling a settlement conference. In support of this motion, Defendant states as follows:

1. A settlement conference was envisioned and called for by Judge Seeger (ECF No. 75), and has been authorized by Judge Jenkins (*Geske*, ECF No. 79; *Jenkins* ECF No. 55).
2. Dating back to January, Judge Seeger (who was overseeing this case at the time) directed Plaintiffs to work with PNY to request information "they would need before engaging in settlement discussions." *Geske*, ECF No. 75.
3. Since then, PNY has provided Plaintiffs' counsel with requested information and

other requested discovery, relating to sales data, package labeling, the powerpacks that Defendant PNY sold, and internal testing of the powerpacks by Defendant PNY, among other things.

4. Given the formal production of this information, and the reality that the products at issue were discontinued by PNY in 2019, PNY submits that it makes sense to have settlement discussions before continuing to expend more resources and time by both the Court or PNY into this case. This is because, as Judge Seeger noted, and as every other judge typically does in the Northern District, courts in this district “will enforce the limits on discovery contemplated in Rule 26, including proportionality.” *Id.*

5. To date, despite being required to offer a calculation of damages by both Rule 26 of the Federal Rules and the Mandatory Pilot Program for the Northern District of Illinois, Plaintiffs have refused to provide an estimate of damages—let alone a settlement demand.

6. There is no way to tell if the scope of discovery—or the cost and time being spent on this case—is proportional or necessary if Plaintiffs do not make a demand and refuse to “figure out a way to get it done” “[b]efore getting started,” as Judge Seeger instructed back in January.

7. Defendant has made several attempts to discuss the possibility of settlement during the meet and confer process to no avail such that Defendant is of the opinion that a neutral mediator is necessary to help the parties arrive at a mutual understanding of what is needed to resolve this litigation without further court intervention.

8. Because of the above, and because it was ordered and envisioned by the district court judges, Defendant reasonably believes that a mediated settlement conference with the Magistrate Judge will be beneficial in furthering a settlement effort and will be the most efficient method of determining the feasibility of a path forward in this litigation.

9. Defendant has been actively trying to move this case forward, and therefore requests a settlement conference as authorized by Judge Jenkins so that the Parties (and the Court) can have an actual appraisal of where this case stands before resolving any additional disputes.

WHEREFORE, in a good-faith effort to resolve this dispute, Defendant PNY respectfully requests that this Court issue an Order scheduling a settlement conference.

Dated: June 22, 2023

Respectfully submitted,

/s/ Ronald Y. Rothstein
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CERTIFICATE OF SERVICE

I hereby certify that on the 22nd day of June 2023, I caused a true and correct copy of the foregoing to be filed electronically with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to all parties and counsel of record.

/s/ Ronald Y. Rothstein